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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/770,354	02/02/2004	Douglas Scott McKellar	AIR-14779.001	7643
40854	7590	10/03/2006		
RANKIN, HILL, PORTER & CLARK LLP 4080 ERIE STREET WILLOUGHBY, OH 44094-7836			EXAMINER PHAN, HAU VAN	
			ART UNIT 3618	PAPER NUMBER
DATE MAILED: 10/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/770,354	Applicant(s) MCKELLAR, DOUGLAS SCOTT	
	Examiner Hau V. Phan	Art Unit 3618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 August 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
4a) Of the above claim(s) 19-21 and 24-26 is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-18, 22 and 23 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Acknowledgment

1. The amendment filed on 8/16/2006 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the claim recites "An accessory device", but in body of claim includes a plurality of accessories for a recliner. It is unclear, whether the claim recites an accessory device or a combination of a device and a recliner.

Regarding claim 18, the term "and/or" renders the claim in alternative form.

4. **Claim 1-18 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sandoval et al. (4,266,765) in view of Robinson (5,882,083).**

Sandoval et al. in figures 1-3, disclose an accessory device, which can be attached to a recliner comprising a base frame portion (12) having a periphery, which is complementary with and removably attachable to a section of the recliner. The base frame includes a number of mounting locations (33, 48), and a plurality of accessories (34, 43), each of which is arranged for attachment to a corresponding one or more of

the mounting locations, in order to be positioned in an operative position on an exterior of the recliner. Sandoval et al. fail to show the recliner.

Robinson in figures 17-19, teaches a seating unit comprising a tray and a base. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Sandoval et al. with the substitution of a recliner having a seating unit and a tray as taught by Robinson in order to receive and support a user.

Regarding claim 2, Sandoval et al. disclose a first sleeve member (33) at one or more of the mounting locations. The first sleeve member is being positioned so as to be exposed to or accessible from a peripheral region of the recliner.

Regarding claim 3, Sandoval et al. disclose a pair of first sleeve members (15, 16) at one or more of the mounting locations. The pair of first sleeve members are being arranged to be oriented horizontally adjacent a side peripheral edge region, a rear peripheral edge region or a front peripheral region of the recliner.

Regarding claim 4, Sandoval et al. disclose a second sleeve member (15) at one or more of the mounting locations. The second sleeve member being arranged to be oriented vertically adjacent a side peripheral edge region, a rear peripheral edge region or a front peripheral edge region and to be exposed to or accessible from a peripheral region of the recliner.

Regarding claim 5, Sandoval et al. disclose each of the second sleeve members, which is arranged to be oriented vertically and positioned adjacent a side face, a rear face or a front face of the recliner.

Regarding claim 6, Sandoval et al. disclose one or more of the second sleeve members, which is arranged to be oriented vertically and positioned near a respective corner of the recliner, when the device is attached to the recliner.

Regarding claim 7, Sandoval et al. disclose the device further comprising an undercarriage to render the recliner mobile when the device is mounted thereon.

Regarding claim 8, Sandoval et al. disclose the undercarriage including a pair of rear caster wheels (17, 18), each of which is mounted on the base frame portion in order to be located against each rear corner of the recliner, when the device is attached to the recliner..

Regarding claim 9, Sandoval et al. disclose the undercarriage including a pair of front caster wheels (21, 22), each to be located against each front corner of the recliner.

Regarding claim 10, Sandoval et al. disclose the base frame portion including a pair of corner formations (as shown in figure 3), each to enclose a corresponding corner region of the recliner, when the device is attached to the recliner.

Regarding claim 11, Sandoval et al. disclose a frame member (13) joining the corner formations together.

Regarding claim 12, Sandoval et al. disclose each corner formation including a bottom portion to engage a bottom face of the recliner, when the device is attached to the recliner.

Regarding claim 13, Sandoval et al. disclose each corner formation including a side portion to engage a side face of the recliner, when the device is attached to the recliner.

Regarding claim 14, Sandoval et al. disclose each corner formation including a rear portion to engage a rear face of the recliner, when the device is attached to the recliner.

Regarding claim 15, Sandoval et al. disclose the bottom, side and rear portions respectively including a bottom, side and rear panels, which are attached together at adjacent edges thereof.

Regarding claim 16, Sandoval et al. disclose a frame member joining the corner formations together. The frame member being adjustable to adjust the spacing between the corner formations, thereby to accommodate recliners of varying dimensions.

Regarding claim 17, Sandoval et al. disclose the accessories including one or more push bars (28) positionable in selected ones of the second sleeve members for pushing the recliner.

Response to Arguments

5. Applicant's arguments filed 8/16/2006 have been fully considered but they are not persuasive. In response to applicant's remark on page 10, that there is no teaching to suggest that the device according to Sandoval et al. would capable of bearing the weight of a patient's body and a chair. The examiner disagrees, because claim 1, recites an accessory mounting device, which is complementary with and removably attachable to a section of a recliner, no language of bearing weight of a patient's body. The applicant also argues that the combined apparatus would be almost impossible to steer around corners or guide over a door threshold. The examiner disagrees, because

those languages are not in claim 1. The applicant also argues that the vertical oxygen tank holder taught by Sandoval et al. would prevent reclining of the chair. The examiner agrees, but claim 1, does not recite a pair of push handles positioning at a pair of corner brackets or no any locking at the back of the recliner for allowing the recliner to recline backward.

6. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the base frame then has plurality of mounting locations for accessories such as push handles, tables, IV poles, oxygen tank holders, etc. The variety of mounting locations permits the attachment of accessories to the recliner at optimized positions for patient comfort and for functioning of the medical devices and accessories used in the care of the patient. For example, the oxygen tank holder can be mounted parallel to the floor adjacent the back perimeter of the chair to ensure that the chair can fully recline to place the patient into the trendelenberg position if needed. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within


TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V. Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan
Primary Examiner
Art Unit 3618



9/27/06